

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ethan Waterman	Team: Squad #10	CCRB Case #: 202000804	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 01/29/2020 3:00 PM, Wednesday, 01/29/2020 3:46 PM	Location of Incident: 177 East 122nd Street; 25th Precinct stationhouse	Precinct: 25	18 Mo. SOL 7/29/2021	EO SOL 3/15/2022	
Date/Time CV Reported Thu, 01/30/2020 2:52 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 01/30/2020 2:52 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jorge Monge	6859	955212	NARCBMN
2. POM Brandon Gembecki	4792	949015	NARCBMN
3. PO Dennisse Maldonadopuello	29467	941064	023 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Jorge Monge	Discourtesy: Outside of 177 East 122nd Street in Manhattan, Police Officer Jorge Monge spoke discourteously to § 87(2)(b)	
B.POM Brandon Gembecki	Force: Outside 177 East 122nd Street in Manhattan, Police Officer Brandon Gembecki used physical force against § 87(2)(b)	
C.POM Brandon Gembecki	Force: Outside 177 East 122nd Street in Manhattan, Police Officer Brandon Gembecki used physical force against § 87(2)(b)	
D.PO Dennisse Maldonadopuello	Force: Outside 177 East 122nd Street in Manhattan, Police Officer Dennisse Maldonado-Puello used physical force against § 87(2)(b)	
E.POM Jorge Monge	Force: Outside 177 East 122nd Street in Manhattan, Police Officer Jorge Monge used physical force against § 87(2)(b)	
F.POM Jorge Monge	Abuse: At the 25th Precinct stationhouse, Police Officer Jorge Monge did not obtain medical treatment for § 87(2)(b)	

Case Summary

On January 30, 2020, § 87(2)(b) called the CCRB and filed this complaint on behalf of his employee, § 87(2)(b) did not witness this incident.

On January 29, 2020, at approximately 3:00 p.m., § 87(2)(b) walked down East 122nd Street between Lexington Avenue and 3rd Avenue in Manhattan. § 87(2)(b) briefly spoke with an old acquaintance, § 87(2)(b) but continued walking west down the street while § 87(2)(b) walked east. Police Officer Jorge Monge of Patrol Borough Manhattan North Narcotics approached § 87(2)(b) and said, “Where the fuck you going?” (**Allegation A: Discourtesy** – § 87(2)(g)). Police Officer Brandon Gembecki of Patrol Borough Manhattan North Narcotics approached § 87(2)(b) grabbed § 87(2)(b) by the wrists, and pulled him to the ground (**Allegation B: Force** – § 87(2)(g)). PO Gembecki then punched § 87(2)(b) multiple times (**Allegation C: Force** – § 87(2)(g)). As PO Gembecki punched § 87(2)(b) off-duty Police Officer Dennis Maldonado-Puello of the 23rd Precinct allegedly stepped on § 87(2)(b) left hand (**Allegation D: Force** – § 87(2)(g)). PO Monge returned to assist PO Gembecki and pulled § 87(2)(b) arm backwards while handcuffing him (**Allegation E: Force** – § 87(2)(g)).

PO Monge arrested § 87(2)(b) on § 87(2)(b), § 87(2)(a) 160.50

§ 87(2)(b) (BR 01). PO Monge also arrested § 87(2)(b) on § 87(2)(b), § 87(2)(a) 160.50 § 87(2)(b) (BR 02).

Upon his arrest, § 87(2)(b) was transported to the 25th Precinct stationhouse, where PO Monge allegedly ignored § 87(2)(b) request for medical attention (**Allegation F: Abuse of Authority** – § 87(2)(g)).

The Office of Court Administration (OCA) and New York State Unified Court System list no record for any criminal case associated with § 87(2)(b) or § 87(2)(b)'s arrests (BR 03-05).

There exists no body-worn camera (BWC) footage for this case, as PO Gembecki's and PO Monge's command – Patrol Borough Manhattan North Narcotics – was not equipped with BWCs at the time. Furthermore, PO Maldonado-Puello was off-duty during this incident and thus was not equipped with a BWC at the time. No other video footage exists regarding this incident.

Findings and Recommendations

Allegation (A) Discourtesy: Outside of 177 East 122nd Street in Manhattan, Police Officer Jorge Monge spoke discourteously to § 87(2)(b)

The investigation has determined the following facts. At approximately 3:00 p.m. on January 29, 2020, § 87(2)(b) walked on East 122nd Street between 3rd Avenue and Lexington Avenue, on the north side of the street when he saw § 87(2)(b) approaching him on the sidewalk. The two briefly interacted and walked away from each other. PO Gembecki and PO Monge, who were driving on East 122nd Street and dressed in plainclothes, exited their unmarked vehicle and approached the two men. While PO Gembecki approached § 87(2)(b) PO Monge approached § 87(2)(b) as he walked away.

§ 87(2)(b) said (BR 06) that when he interacted with § 87(2)(b) § 87(2)(b) told him that he was on his way to see a friend whose son had died. § 87(2)(b) told § 87(2)(b) to forward his regards to the friend. § 87(2)(b) and § 87(2)(b) then hugged and shook hands before they separated. § 87(2)(b) walked down East 122nd Street for approximately one to two minutes. When § 87(2)(b) arrived at the corner of Lexington Avenue and East 122nd Street, PO Monge approached § 87(2)(b) and said, “Where the fuck you going?” § 87(2)(b) put his hands in the air. PO Monge then guided § 87(2)(b) to a metal gate by Ronald E. McNair Park on the north side of East 122nd Street and told § 87(2)(b) to keep his hands up and not move. As § 87(2)(b) stood still with his hands up against the fence, he saw that several officers further down the street on top of § 87(2)(b) PO Monge then handcuffed § 87(2)(b) and walked him down the street towards where § 87(2)(b) was.

PO Monge testified (BR 07) that he drove down East 122nd Street to pick up another officer from his command who had just made an arrest. While he did so, PO Monge saw § 87(2)(b) and § 87(2)(b) exchange a small Ziploc bag with a white powdery substance while they stood on the sidewalk on East 122nd Street. PO Monge did not see the two exchange any other items and testified that nothing obstructed PO Monge's vision when he observed § 87(2)(b) and § 87(2)(b) exchange the Ziploc bag. PO Gembecki exited the rental car and approached § 87(2)(b) who had not moved from the spot of the exchange with § 87(2)(b) while PO Monge approached § 87(2)(b) who had walked down the street. PO Monge, who had his shield out and visible, said to § 87(2)(b) "Sir, stop, police." PO Monge did not say to § 87(2)(b) "Where the fuck are you going?", though he did consider § 87(2)(b) to be under arrest. PO Monge never used any profanity in speaking to § 87(2)(b)

§ 87(2)(g)

§ 87(2)(g)

Allegation (B) Force: Outside 177 East 122nd Street in Manhattan, Police Officer Brandon Gembecki used physical force against § 87(2)(b)

Allegation (C) Force: Outside 177 East 122nd Street in Manhattan, Police Officer Brandon Gembecki used physical force against § 87(2)(b)

§ 87(2)(b) testified (BR 08) that, after he spoke with § 87(2)(b) he started to walk down East 122nd Street. PO Gembecki, who § 87(2)(b) presumed came from between parked cars on 122nd Street, without warning, ran in front of § 87(2)(b) grabbed both of § 87(2)(b) wrists with his hands, and yelled, "stop resisting!" multiple times. § 87(2)(b) responded, "Resisting? Who are you?" At first, § 87(2)(b) did not know that PO Gembecki was a police officer but he never physically resisted PO Gembecki. PO Gembecki pushed § 87(2)(b) back to a building while he held § 87(2)(b) wrists in front of § 87(2)(b) body, jerking them back and forth. PO Gembecki asked § 87(2)(b) what he had in his pockets. While PO Gembecki still held his wrists, § 87(2)(b) pulled his wallet out of his front right pocket and dropped it on the ground. Both PO Gembecki and § 87(2)(b) leaned over to pick up the wallet. § 87(2)(b) put his wallet back in his pocket while PO Gembecki held him. PO Gembecki yelled for PO Monge to come over. PO Gembecki showed § 87(2)(b) his shield to prove that he was a police officer. § 87(2)(b) again asked PO Gembecki why he was assaulting him. § 87(2)(b) stood upright against a building while PO Gembecki held his wrists in front of his body. Before PO Monge arrived, PO Gembecki, who still held both of § 87(2)(b) wrists in front of his body, pulled § 87(2)(b) forward to the ground by the wrists, forcing § 87(2)(b) head and knees to hit the pavement. § 87(2)(b) sustained injuries to both of his knees and a bloody bump on his left temple due to PO Gembecki pulling him to the ground. § 87(2)(b) described that he may have lost consciousness as PO Gembecki brought him to the ground, but could not definitively recall. PO Gembecki jumped on § 87(2)(b) back, and punched § 87(2)(b) in the ribs, neck, and face. PO Gembecki punched § 87(2)(b) for approximately 30 to 40 seconds, but § 87(2)(b) did not recall how many times PO Gembecki struck him. While PO Gembecki punched him, § 87(2)(b) attempted to cover his head and torso with his arms. § 87(2)(b) again asked PO Gembecki why he was assaulting him.

§ 87(2)(b) was treated at § 87(2)(b) at 10:57 p.m. on § 87(2)(b). Medical records show (BR 09) that § 87(2)(b) complained of pain and swelling to his right knee. A physical examination by § 87(2)(b) attending physician revealed slight swelling to the right knee. Per the medical records, § 87(2)(b) denied having head or neck pain.

On § 87(2)(b), § 87(2)(b) went to § 87(2)(b) for additional care. Medical

records (BR 10) documented that § 87(2)(b) complained of pain to his right knee and told physicians that he had since experienced headaches and nausea as a result of his head hitting the ground during his arrest. An emergency department physical revealed healed abrasions to § 87(2)(b) left upper forehead as well as swelling to the right knee. The § 87(2)(b) emergency department's assessment revealed effusion to the right knee and noted that § 87(2)(b) likely had a concussion or other traumatic brain injury.

PO Gembecki (BR 11) testified that after observing a hand-to-hand narcotics transaction, he exited his sedan and approached § 87(2)(b) while PO Monge approached § 87(2)(b). As PO Gembecki approached, he noticed a white powdery substance on § 87(2)(b) nose, which PO Gembecki testified was indicative of cocaine usage, and PO Gembecki considered § 87(2)(b) to be under arrest. § 87(2)(b) independently began to back away from PO Gembecki towards a building. PO Gembecki identified himself as a police officer and his shield was displayed on his hip. § 87(2)(b) continued to back away from PO Gembecki. PO Gembecki lifted his arms to grab § 87(2)(b) upper torso, but § 87(2)(b) grabbed hold of both PO Gembecki's arms above the wrist, leaving scratch marks on PO Gembecki's arms. § 87(2)(b) told PO Gembecki, in sum and substance, that "I'm gonna pop you." At the time, PO Gembecki did not know what § 87(2)(b) meant by this statement. At this point, PO Gembecki directed § 87(2)(b) to put his hands behind his back and told § 87(2)(b) that he was under arrest. § 87(2)(b) refused to put his hands behind his back. PO Gembecki grabbed § 87(2)(b) by his shirt in the upper torso area with both his hands and pulled § 87(2)(b) towards himself, and then to the ground. PO Gembecki did not know how he and § 87(2)(b) landed on the ground. PO Gembecki attempted to grab § 87(2)(b) hands and place them behind his back but was initially unsuccessful. PO Gembecki told § 87(2)(b) to stop resisting and that he was a police officer. § 87(2)(b) refused to stop resisting and he dug around with his hands in his front waistband area and rolled on the ground from his back to his sides to his fronts. § 87(2)(b) also tensed his arms and moved his hands in front of himself and away from PO Gembecki. PO Gembecki moved around with § 87(2)(b) as § 87(2)(b) rolled around. PO Gembecki did not recall if he used any hand strikes against § 87(2)(b). PO Gembecki testified that he did not punch § 87(2)(b).

PO Monge was first alerted to a struggle between § 87(2)(b) and PO Gembecki by passersby on the sidewalk. When PO Monge approached, PO Gembecki and an unidentified off-duty female police officer tried to handcuff § 87(2)(b) on the ground. PO Monge did not see PO Gembecki punch § 87(2)(b) nor did he see PO Gembecki strike § 87(2)(b) on the head, ribs, or neck.

PO Maldonado-Puello testified (BR 12) that she saw § 87(2)(b) and PO Gembecki in a struggle as she was driving in her personal car on East 122nd Street. When she first saw the two struggling, PO Gembecki and § 87(2)(b) stood in an upright position. PO Maldonado-Puello exited her car and approached PO Gembecki and § 87(2)(b) to assist. By the time she exited her car to assist, PO Gembecki and § 87(2)(b) had fallen to the ground. PO Maldonado-Puello did not see how PO Gembecki and § 87(2)(b) had fallen. § 87(2)(b) lay with his stomach to the ground while PO Gembecki knelt beside him. PO Gembecki tried to reach for § 87(2)(b) hands, but § 87(2)(b) moved his arms in all directions to prevent officers from grabbing his hands. PO Maldonado-Puello did not see PO Gembecki punch § 87(2)(b) body or head.

§ 87(2)(b) said that as he approached § 87(2)(b) on the sidewalk with PO Monge, § 87(2)(b) could barely see § 87(2)(b) underneath more than four police officers. § 87(2)(b) could not see if § 87(2)(b) lay on his stomach or back but saw that § 87(2)(b) hands were splayed out away from his body. Some officers straddled § 87(2)(b) on the ground and others were still standing. The officers all punched and kicked § 87(2)(b) in the face and body. § 87(2)(b) saw an officer punch § 87(2)(b) in the face.

On January 30, 2020, Sergeant Ian Scheinblum of Narcotics Borough Manhattan North completed a Threat, Resistance, and Injury Report regarding this incident (BR 13). Sgt. Scheinblum listed the type of force used by PO Gembecki as follows: "forcible take down, hand strike,

wrestling/grappling, foot strike,” the use of which caused “minor contusions” and “complaint of substantial pain” regarding § 87(2)(b). The report further listed the reason for this use of force to “overcome resistance or aggression” and “defense of self.” The narrative section of the TRI report reads as follows: “At TPO § 87(2)(b) was observed ingesting controlled substance when [PO Gembecki and PO Monge] approached, § 87(2)(b) resisted arrest by pushing away from officers and grappling with officers...”

§ 87(2)(g)

Allegation (D) Force: Outside 177 East 122nd Street in Manhattan, Police Officer Dennis Maldonado-Puello used physical force against § 87(2)(b)

§ 87(2)(b) testified that, as PO Gembecki punched him, PO Maldonado-Puello stepped on § 87(2)(b) left hand with her black Nike boots, knocking the skin off his ring and pinkie fingers.

§ 87(2)(b) testified that he saw PO Maldonado-Puello stomp on § 87(2)(b) hand.

PO Maldonado-Puello testified that she never stepped or stomped on § 87(2)(b) hand. PO Maldonado-Puello only assisted in handcuffing § 87(2)(b) by grabbing one of his hands to be handcuffed.

PO Gembecki testified that PO Maldonado-Puello assisted him in his attempts to put handcuffs on § 87(2)(b). PO Gembecki knew nothing else about PO Maldonado-Puello. PO Gembecki did not know where PO Maldonado-Puello came from and did not remember how she oriented her body in relation to that of § 87(2)(b). PO Gembecki did not see PO Maldonado-Puello step on § 87(2)(b) hand with her feet.

PO Monge testified that when he returned with § 87(2)(b) he saw PO Maldonado-Puello assist PO Gembecki in restraining and handcuffing § 87(2)(b). PO Monge did not remember what specifically PO Maldonado-Puello did to assist. PO Monge did not see PO Maldonado-Puello step on § 87(2)(b) hand with her feet.

PO Gembecki photographed § 87(2)(b) left hand on the night of the incident (BR 14), which revealed a bloody nailbed on the pinkie and a bandage covering the upper area of the ring finger.

§ 87(2)(b) medical records from § 87(2)(b) on § 87(2)(b) noted that § 87(2)(b) had abrasions to the third and fourth digits of his right hand.

In the TRI prepared by Sgt. Scheinblum, “foot strike” is one of the listed types of force used by MOS during this incident, but the report does not further detail how and by whom the foot strike was used.

§ 87(2)(g)

Allegation (E) Force: Outside 177 East 122nd Street in Manhattan, Police Officer Jorge Monge used physical force against § 87(2)(b)

§ 87(2)(b) testified that PO Monge assisted PO Gembecki and PO Maldonado-Puello in handcuffing him. As noted above, § 87(2)(b) testified that he had attempted to cover his head and torso with his arms because PO Gembecki punched him. PO Monge grabbed § 87(2)(b) left arm, handcuffed the wrist, and pulled § 87(2)(b) arm backwards, which caused injuries to § 87(2)(b) left shoulder, collarbone, elbow, and wrist. Thereafter, the officers fully handcuffed him.

§ 87(2)(b) medical records from § 87(2)(b) on § 87(2)(b) noted that § 87(2)(b) complained of pain to his left clavicle, elbow, and wrist. X-ray results revealed no acute fractures to the left clavicle, left shoulder, left elbow, and left wrist. § 87(2)(b) was prescribed 30 600mg tablets of ibuprofen in regard.

PO Monge testified that, as he assisted in apprehending § 87(2)(b) § 87(2)(b) reached towards his waistband and tried to twist his body backwards and move his elbows away from his torso in order to stand up and flee. PO Monge, in his attempt to apprehend § 87(2)(b) took one of § 87(2)(b) hands, handcuffed it, and pulled that arm upwards from the ground. § 87(2)(b) was then fully handcuffed.

PO Maldonado-Puello said that no officers additional to herself and PO Gembecki assisted in handcuffing § 87(2)(b)

§ 87(2)(g)

Allegation (F) Abuse of Authority: At the 25th Precinct stationhouse, Police Officer Jorge Monge did not obtain medical treatment for § 87(2)(b)

§ 87(2)(b) testified that when he was first placed in a holding cell at the 25th Precinct stationhouse, he asked PO Monge for EMS because he was bleeding from the head and hand. PO Monge allegedly did not respond to § 87(2)(b) and walked away. § 87(2)(b) testified that he did not receive medical attention until after he was removed to Central Booking.

Per § 87(2)(b) arraignment tracking sheet, he was first placed at the 25th Precinct stationhouse at 3:46 p.m. (BR 15). § 87(2)(b) medical records from § 87(2)(b) confirm he arrived for treatment at 10:57 p.m.

PO Monge testified that, while he was at the stationhouse, he brought § 87(2)(b) to speak with 25th Precinct detectives. § 87(2)(b) never asked PO Monge for medical attention while at the stationhouse.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to one other complaint and named a victim in 13 allegations (BR 16).

- § 87(2)(b)

- This is the first complaint to which § 87(2)(b) is a party (BR 17).
- PO Gembecki has been a member of service for ten years and has been subject in 12 complaints and 27 allegations, three of which were substantiated.
 - 201509979 involved an allegation of a retaliatory summons against PO Gembecki. The CCRB recommended formalized training and NYPD imposed formalized training.
 - 201806951 involved a pair of allegations of word discourtesies against PO Gembecki. The CCRB recommended command level instructions and the NYPD imposed instructions.
 - § 87(2)(g)
- PO Maldonado-Puello has been a member of service for fifteen years and has been a subject in one complaint and one allegation, which was substantiated.
 - 201006645 involved a substantiated allegation of retaliatory summons against PO Maldonado-Puello. The CCRB recommended Command Discipline and the NYPD imposed Command Discipline B and Instructions.
 - § 87(2)(g)
- PO Monge has been a member of service for seven years and has been subject in eight complaints and 16 allegations, one of which was substantiated.
 - 201510236 involved an allegation of physical force against PO Monge. The CCRB recommended charges and the NYPD docked 15 vacation days from PO Monge.
 - § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- § 87(2)(b)
- § 87(2)(b)

Squad No.: 14

Investigator: <u>Ethan C. Waterman</u>	Inv. <u>Ethan Waterman</u>	November 9, 2021
Signature	Print Title & Name	Date

Squad Leader: _____	_____	_____
Signature	Print Title & Name	Date

Reviewer: _____	_____	_____
Signature	Print Title & Name	Date

CCRB Case # 202000804

